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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10 KENNETH E. SMITH,
11 Plaintiff,

12 vs.

13 CITIFINANCIAL RETAIL SERVICES *et*
14 *al.*,

15 Defendants.

Case No. 3:06-cv-02966 BZ

**[PROPOSED] ORDER MAKING
EXHIBITS 11 AND 12 PART OF THE
PUBLIC RECORD**

16 On May 14, 2007, in accordance with Local Rule 79-5(d), plaintiff filed and served an
17 Administrative Motion to File Under Seal certain documents which defendant CitiFinancial
18 Retail Services had marked "confidential" during discovery. Plaintiff had attached those
19 documents as Exhibits 11 and 12 to the declaration of Andrew J. Ogilvie in Support of Plaintiff's
20 Motion for Attorneys' Fees. CitiFinancial stamped them with the following Bates numbers:

21 Exhibit 11 consists of:

22 Citi/S 0268 through Citi/S 0270 and
23 Citi/S 0279 through Citi/S 0280.

24 Exhibit 12 consists of:

25 Citi/S 0282 through Citi/S 0291.

1 Plaintiff's Administrative Motion shows that copies of Exhibits 11 and 12 were delivered to
 2 CitiFinancial's counsel on May 14, 2007. Plaintiff lodged copies of Exhibits 11 and 12 with the
 3 Clerk's office on May 15, 2007.

4 Local Rule 79-5(d) provides that when a party wishes to file a document that has been
 5 designated confidential by another party pursuant to a protective order, the submitting party must
 6 file an Administrative Motion and lodge the document with the Clerk, as plaintiff has done here.

7 Local Rule 79-5(d) further provides that "within five days thereafter, the designating
 8 party must file with the Court and serve a declaration establishing that the designated
 9 information is sealable...." If the designating party fails to file a responding declaration within
 10 the five days allowed, the Rule provides that "the document... will be made part of the public
 11 record." *Id.*

12 More than five days have passed since plaintiff filed the Administrative Motion under
 13 Local Rule 79-5(d) and lodged Exhibits 11 and 12 with the Clerk. CitiFinancial has not filed any
 14 responsive declaration. Consequently Exhibits 11 and 12 are now part of the public record.
 15 Counsel for plaintiff is ordered to file in the public record copies of those exhibits as soon as
 16 reasonably possible.
 17

18 Dated: June __, 2007

19 By _____
 20 Bernard Zimmerman
 21 United States Magistrate Judge

22 Dated: May 29, 2007
 23 Defendant made no 79-5(d) showing.

